IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3971 of 2006()

CC.661/2005 of JUDL. MAGISTRATE OF FIRST CLASS, VAIKOM

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PETITIONER: ACCUSED:

GEORGE ANTONY @ SPHATIKAM GEORGE,
THURUTHEL HOUSE, CHENGALAM SOUTH P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.K.J.ALPHONS

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
KUMARAKAM POLICE STATION, KOTTAYAM DISTRICT.

3. REJI MEECHERI,
MEECHERIL HOUSE, BRAHMAMANGALAM KARA,
CHEMBU VILLAGE, VAIKOM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3971 OF 2006

Dated this the 5th day of December, 2006.

ORDER

The petitioner faces indictment in a prosecution under Sections 138 of the Negotiable Instruments Act. The case was taken on file as C.C.No.661 of 2005 before the J.F.C.M, Vaikkom According to the petitioner, he was not served with any notice. He has come to know that the learned Magistrate has issued a non bailable warrant to secure his presence. His particular anxiety is that the complainant to whom the learned Magistrate has handed over the non bailable warrant for execution might ensure that the petitioner is not able to surrender himself before the learned Magistrate. He may be got arrested, insulted and annoyed before such surrender. The petitioner wants assistance of this Court by issue of appropriate direction under Section 482 Cr.P.C to appear before the learned Magistrate and seek bail in the regular and ordinary course. His arrest and incarceration before he appears before the learned Magistrate may be avoided. Appropriate direction may be issued in this regard, it is prayed.

2. I have considered all the relevant inputs. I am persuaded to accept that direction deserves to be issued to

facilitate peaceful surrender of the petitioner before the learned Magistrate. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such cause shown by him and pass appropriate orders expeditiously on the application for bail to be filed by him on such surrender.

3. In the result:

i) This Crl.M.C is allowed in part;

ii) It is directed that the non bailable warrant issued against the petitioner in C.C.No.661 of 2005 of J.F.C.M, Vaikkom shall not be executed till 11.12.2006.

iii) The petitioner shall appear before the learned Magistrate at 11 a.m on 11.12.2006. His application for bail shall be considered by the learned Magistrate on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(**R.BASANT, JUDGE)**

rtr/